

REMARKS

Favorable reconsideration of this application in view of the foregoing amendments and remarks to follow is respectfully requested. Since the present amendment raises no new issues, and in any event, places the application in better condition for consideration on appeal, entry thereof is respectfully requested.

Before addressing the specific grounds of rejection raised in the present Office Action, applicants have amended Claims 1, 12 and 17 to recite that the oil-in-emulsion is a macroemulsion. Support for this amendment to Claims 1, 12 and 17 is found in example 8 in which a conventional procedure of combining and homogenizing is employed. The homogenizing provides a uniform mixture of Phase A and Phase B. No special conditions or homogenizers are mentioned therefore the oil-in-water emulsion of the present invention is a macroemulsion.

Based on the above, entry of the amendments to the claims is respectfully requested. Applicants submit that the above amendment was made in light of the Examiner's comments made under item 5 of the Final Rejection dated July 2, 2003.

Claims 1-9 and 12, 13, and 15-23 stand rejected under 35 U.S.C §103 as allegedly unpatentable over U.S. Patent No. 6,488,780 to Cauwet-Martin.

With respect to the obviousness rejection citing the disclosure of Cauwet-Martin, applicants submit that the claims of the present application are not obvious from Cauwet-Martin for the following reasons. Cauwet-Martin provides detergent and conditioning compositions having a washing base composed of surface active agents with a detergent powder and a conditioning system which is in the form of a nanoemulsion. In particular,

the conditioning system is described at Col. 1, lines 54-56 as comprising at least one oil-in-water emulsion having oil globules with a mean particle size of less than 150 nm.

Nanoemulsions are clearly differentiated from macroemulsion in the example appearing at Col. 12, line 65-Col. 14, line 12.

In the example, the comparative composition, i.e., composition B, is a macroemulsion which has oil globules of approximately 1500 nm. See Col. 15, lines 57-58. This example outlines that the use of nanoemulsions is *critical* for the stability of the detergent and conditioning composition. In particular, at Col. 13, lines 62-64, it is stated that “[T]he composition B is unstable and the oil separates out at the surface of the liquid, whereas the composition A is homogeneous and stable.” Thus, Cauwet-Martin clearly teaches and suggests that stable composition are only obtained in instances in which the emulsion is in the form of a nanoemulsion, irrespective of the type of emulsifier being used.

The nanoemulsion of the patented prior art reference described in the example contains two organic emulsifiers (nonionic and ionic), avocado oil, ethanol, glycerin and water, and it is reported to have oil globules of approximately 60 nm. From the disclosure of Cauwet-Martin, it is obvious that the way in which the emulsion is prepared (i.e., nanoemulsion vs. macroemulsion) is decisive for the achievement of a stable composition. Cauwet-Martin discloses that polyether siloxanes are preferred non-ionic amphiphilic lipids (see, Col. 5, lines 25-50), i.e., emulsifiers for the production of nanoemulsions, but not mandatory as can be seen in the given example. For the production of nanoemulsions, the prior art reference requires that a high-pressure homogenizer be used. See Col. 13, line 36-37.

In contrast to the disclosure of Cauwet-Martin, the present invention provides emulsions prepared using a conventional procedure (see, for example, the preparation procedure mentioned in Example 8). Hence, applicants' claimed invention is directed to macroemulsions, not nanoemulsions. The unexpected finding of the present invention which is described at Page 5, line 26-Page 6, line 20 may be summarized as follows: Only by using a selected and specific type of polyether siloxane of formula I in combination with stabilizers known from the state of the art can one obtain homogeneous and stable (silicone oil-free) oil-in-water emulsions.

According to the teaching of Cauwet-Martin, on the other hand, macroemulsions using polyether siloxanes or any other type of emulsifier would be unstable. Hence, the disclosure of Cauwet-Martin teaches away from the claimed invention in which stable emulsions containing a specific polyether siloxane emulsifier can be obtained without the need of forming nanoemulsions.

Moreover, one skilled in the art expects that the addition of stabilizers would lead to stable emulsions. It is, however, experienced that the addition of stabilizers is not sufficient to obtain homogeneous and stable (silicone oil-free) oil-in-water emulsions by using polyether siloxanes known in the art. See Example 9 of the present application. The teaching of the present application is that only a selected and specific type of polyether siloxane of formula I is compatible with commonly used stabilizers and that the claimed polyether siloxanes can be used to form homogeneous and stable emulsions (see Examples 8 and 9). The claimed polyether siloxanes are characterized as relatively hydrophobic amphiphiles, whereas classical oil-in-water emulsifiers are characterized as strongly hydrophilic ones.

In view of the above remarks, the rejection under 35 U.S.C. §103 has been obviated. Applicants therefore request reconsideration and withdrawal of the instant §103 rejection.

Thus, in view of the foregoing amendments and remarks, it is firmly believed that the present case is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



Leslie S. Szivos
Registration No. 39,394

Customer Number: 23389

LSS/sf